

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO.594 OF 1982

THE HON'BLE MR. JUSTICE Y.B. BHATT:

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Appearance:

Mr. M.D. Pandya, advocate for the petitioner.

Mr. P.V. Nanavati, advocate for the respondent.

CORAM: Y.B. BHATT J.

Date of Decision: 06-12-1995

JUDGEMENT

1. The present revision is one under section 29(2) of the Bombay Rent Act (hereinafter referred to as 'the said Act'), filed by the original defendant-tenant, wherein the respondent is the original plaintiff-landlord.

2. The landlord-plaintiff had filed a suit in the Rent

Court for a decree of eviction against the defendant-tenant on a number of grounds. All such grounds need not be discussed herein inasmuch as the trial court passed a decree against the defendant on only one ground viz. that after coming into operation of the said Act the tenant has acquired other suitable residential premises. It also recorded a finding that the tenant has committed breach of the terms of tenancy inasmuch as he started a tailoring business in the tenanted premises, although the same was let only for residential purposes.

3. Being aggrieved by the trial court decree, the tenant preferred an appeal under section 29(1) of the said Act which came to be dismissed. Thus, lower appellate court confirmed the decree of eviction against the tenant on the aforesaid grounds.

4. It is under such circumstances that the tenant has preferred the present revision.

5. At the outset I am required to bear in mind the principles laid down by the Supreme Court in the case of *Helper Girdharbhai* (AIR 1987 SC 1782) where the basic principle laid down is that this court in a revision under section 29(2) would not be justified in interfering with concurrent findings of fact, unless the same is a perversity in law.

6. During the course of the hearing when it became apparent to the learned counsel for the petitioner that there are many impediments in his way in the present petition, he ultimately confined his submissions to the consequential request of granting time to the tenant to vacate the premises without entering into the merits of the present revision.

7. Learned counsel for the respondent-landlord submitted that he leaves the entire question of granting sufficient time to the discretion of this court.

8. Having heard the learned counsel for the petitioner on the aspect of granting time, and on the length of time the petitioner would require to vacate the premises, a consensus has been arrived at between the learned counsel for the parties even on this aspect.

9. In the premises aforesaid, it is directed that the petitioner-tenant is granted time upto 31st January 1999 to vacate the premises in question, subject to the condition that an undertaking on usual terms is filed in this court on or before 10th January 1996. If the undertaking as aforesaid is not filed by the due date or in case of breach of any of the

terms and conditions contained in the said undertaking, the decree shall become executable forthwith.

8. Subject to the aforesaid directions the present revision is dismissed. Rule is discharged with no order as to costs. Interim relief vacated.
